

Notice of Allowability

Application No.

10/009,966

Examiner

David T. Fox

Applicant(s)

ROITSCH, THOMAS G.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 3/28/05 and 6/29/05.
2. ☒ The allowed claim(s) is/are 45-49, 51-54, 60-61, 63-69, 73, 86 and 89 renumbered as 1-21.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

The petition under 37 CFR 1.48(a) of 28 March 2005 to change inventorship has been GRANTED. Inventor Marc Goetz has been added.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

IN THE SPECIFICATION:

On page 1, under the title, "DESCRIPTION" was replaced with the following paragraph:

---This application is a 371 of PCT/DE00/01944 filed 13 June 2000.---

On page 17, penultimate paragraph, "drawings, wherein show: " was replaced with ---drawings. ---.

On page 17, between the bottom two paragraphs, ---BRIEF DESCRIPTION OF THE DRAWINGS--- was inserted.

On page 17, last paragraph, "Fig. 1" was replaced with ---Figs. 1A-1C---.

On page 18, second paragraph, "Fig. 3" was replaced with ---Figs. 3A-3C---.

On page 18, fifth paragraph, "Fig. 6" was replaced with ---Figs. 6A-6C---.

On page 18, bottom paragraph, "Fig. 13" was replaced with ---Figs. 13A-13B---.

On page 19, top paragraph, "Fig. 14" was replaced with ---Figs. 14A-14B---.

IN THE CLAIMS:

Non-elected claims 50, 55-59, 62, 70-72, 74-85 and 87-88 were cancelled without prejudice.

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Claims 46, 48, 53-54, 60-61, 69, 73 and 89 were amended as follows:

In claim 46, line 3, "contiguous 1000" was replaced with --- 1000 contiguous---

In claim 48, line 3, "sequence represented in" was deleted.

In claim 53, line 5, the comma after "sequences" was deleted, and "which have" was replaced with ---and---

In claim 54, line 5, "claims" was replaced with ---claim---

In claims 60-61, line 12, the comma after "sequences" was deleted.

In claims 60-61, line 13, "which have" was replaced with ---and---

In claim 61, line 1, "A" was replaced with ---An isolated---

In claim 69, line 1, "An" was replaced with ---A---

---Claim 73 (Currently amended). A method for expression of a nucleic acid sequence, wherein said method comprises [using a] incorporating into a nucleic acid construct an isolated nucleic acid sequence comprising a tapetum-specific and a pollen-specific promoter, and wherein said nucleic acid sequence comprises a range of at least 900 contiguous nucleotides upstream of the TATA box of the SEQ ID NO:1.---

In claim 89, line 1, "Plant" was replaced with ---The plant---

IN THE ABSTRACT:

In line 3, the comma after "male" was deleted.

Authorization for this examiner's amendment was given in a telephone interview with Stephan Pendorf on 08 September 2005.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fox whose telephone number is 571-272-0795. The examiner can normally be reached on Monday through Friday from 10:30AM to 7:00PM.

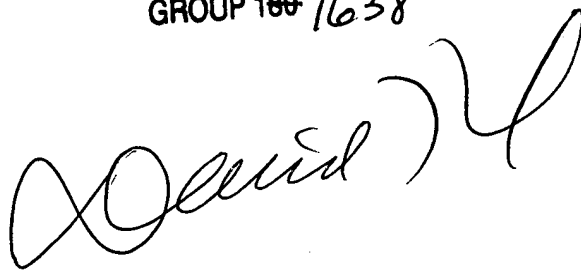
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on 571-272-0745. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 9, 2005

DAVID T. FOX
PRIMARY EXAMINER
GROUP 180 1638

A handwritten signature in cursive script, appearing to read "David T. Fox", written over the printed name and title.